

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)
)
Plaintiff,) 4:08CR3090
)
v.)
)
LEROY HENRY COOPER,) MEMORANDUM AND ORDER
)
Defendant.)
)

A hearing was scheduled to be held this date on the defendant's motion to dismiss. However, prior to the hearing, counsel advised the court that they had determined an alternative course that may resolve the defendant's objections to the indictment, by presenting a superseding indictment to the grand jury. As a result of that advisement,

IT THEREFORE HEREBY IS ORDERED:

1. The hearing on the motion to dismiss is continued to February 3, 2009 at 9:00 a.m. before the undersigned.
2. In the event there is in the meantime a superseding indictment filed, the defendant is given ten days following such filing to file a second motion to dismiss directed to the allegations in the superseding indictment, in which case the presently pending motion to dismiss will be denied as moot.
3. If there is filed a second motion to dismiss directed to the allegations in the superseding indictment, the government is given five working days thereafter in which to respond.
4. Any evidentiary hearing on the second motion to dismiss will be separately ordered.

DATED this 16th day of December, 2008.

BY THE COURT:

s/ *David L. Piester*
David L. Piester
United States Magistrate Judge